

# EXHIBIT C

(https://www.deque.com/)



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# Deque Software License Terms – axe<sup>®</sup> products

## Terms of Use – axe products

**Note: If you or your organization has a previously negotiated agreement with Deque related to the SaaS Services, the terms of that agreement will take precedence over these Terms of Use.**

These Terms of Use (these “Terms of Use”) apply to the use of the axe products (the “Product”). These Terms, together with the information about scope of use, pricing, payment, and other matters contained in the menu, presentation, click-through process, or order form with which these Terms of Use are associated (the “Specific Terms”), constitute an agreement between Customer and Deque Systems, Inc. (“Deque”). The Terms of Use and the Specific Terms are the “Terms.” “Customer” means (a) where these Terms of Use are associated with an executed order form, the person or organization named in the order form, otherwise (b) the individual or business organization using the Product. If an individual receives or uses the Product for, or accepts the Terms on behalf of, an organization, that organization is also “Customer” and the individual so receiving or using the Terms and/or the Product represents and warrants to Deque that the individual is authorized to do so for the organization and to bind the business organization to the Terms.

(https://github.com/dequelabs/legal-docs/blob/main/terms-of-use.md#1-service)

### 1. Service.

- **Availability.** During the period of time specified by the Specific Terms (or, if no period of time is so specified, one year) subject to renewal as stated in the Terms, Deque will make available to Customer, and Customer may use, the Product to the extent stated in the Specific Terms. Where, and to the extent that, Deque makes available the Product by means of an Internet connection, Deque will make available the Product at the outermost point on Deque’s firewall with the public Internet (the “Demarcation Point”).
- **Restrictions.** Customer may not, and may not allow any third party to:

1. Decompile, disassemble, decrypt, or reverse engineer the Product or attempt to derive the source code for any part of the Product;
  2. Encumber any right in the Product in favor of a third party, whether by agreement, operation of law, or otherwise;
  3. Remove from the Product any product identification or proprietary rights notices;
  4. Sell, lease, lend, or sublicense the Product to any third party;
  5. Use the Product for timesharing or service bureau purposes or for any purposes not expressly permitted by the Terms;
  6. Share the Product access credentials with any other resource, including, but not limited to, where licensed on a named-user basis, permitting more than one natural person to access or use the Product, whether concurrently, non-concurrently, or otherwise;
  7. Modify or create derivative works of the Product;
  8. Publish or disclose to any third party the results of any benchmark tests or other evaluation run on the Product without the prior written consent of Deque; or
  9. Otherwise use or copy the Product except as expressly provided in the Terms.
- **Customer Responsibilities.** Customer shall be solely responsible for providing, maintaining, and ensuring its ability to access the Product, including, where applicable, securing Internet access to the Demarcation Point. Customer will use commercially reasonable efforts to prevent unauthorized access to or use of the Product.

(<https://github.com/dequelabs/legal-docs/blob/main/terms-of-use.md#2-data-customer-warranties>) **2. Data;**

## Customer Warranties.

- **Customer Test Data.** Where the Product permits or requires, Customer may upload Customer Test Data. Customer grants to Deque a perpetual, non-exclusive, non-sub-licensable, non-transferable license to capture, copy, store, transmit, maintain, access, and display the Customer Test Data for all internal business purposes and for the development and enhancement of its products and services. "Customer Test Data" means data, information or material uploaded or routed to the Product, transmitted using the Product or otherwise provided or made available to Deque in any medium by Customer or third parties in connection with use of the Product, together with any derivative works made therefrom, and shall include data, information, or material relating to accessibility testing, results of accessibility test procedures, web site metrics, and related items. Customer Test Data does not include Restricted Data nor Personal Data.
- **Customer Warranties.** Customer represents and warrants that:
  1. Customer has all rights in the Customer Test Data (including, but not limited to, personal data included in the Customer Test Data) necessary to process such Customer Data using the Product and to grant to Deque the rights that Customer grants in the Terms;
  2. Customer is solely responsible for the accuracy, quality, integrity, reliability and appropriateness of the Customer Test Data;
  3. No consent, approval, authorization, permission, ratification or waiver from, notice to, or registration or filing with, any third party is required for the execution, delivery and performance of the Terms by Customer; and
  4. Neither the execution and delivery of the Terms by Customer nor Customer's performance under the Terms does or will (with or without notice or lapse of time or both) (i) contravene, conflict with or result in a violation of any law or any governmental order to which Customer is subject, or (ii) contravene or

conflict with, result in any breach of, or constitute a default under any contract or arrangement to which Customer is a party.

- **Personal Data.**

1. "Personal Data" means information that both (i) relates to an identified or identifiable natural person, where an "identifiable natural person" is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person and (ii) is protected, and/or its use is restricted, as such by applicable law. If and when Customer provides, or causes or allows to be provided, to Deque Personal Data ("Provided Personal Data"), Customer represents and warrants that Customer has all necessary rights in Provided Personal Data (e.g., consent, legitimate basis, derogation, exemption, etc.) necessary to provide the Provided Personal Data to Deque and for Deque to process such Provided Personal Data as reasonably necessary to perform Services under this Agreement using such Provided Personal Data. Customer will provide to Deque no Personal Data that is not necessary for Deque's performance under this Agreement. Deque will use any Provided Personal Data solely for the purposes of performance under this Agreement and will comply with all law applicable to Deque that regulates Personal Data.
2. "Restricted Data" means Personal Data that is "sensitive personal data" under applicable law or that applicable law provides protections and/or remedies that are in excess of those that apply to other personal data. The term includes, but is not limited to, nonpublic Personal Data (as that term is defined by the Financial Services Modernization Act of 1999), protected health information (as that term is defined by the Health Insurance Portability and Accountability Act of 1996) Deque's Software or SaaS Services do not require that Deque possess or use Restricted Data. Customer will not make available to Deque any Restricted Data and Customer will prevent Deque from being exposed to any Restricted Data in the course of Deque's performance under this Agreement.

(<https://github.com/dequelabs/legal-docs/blob/main/terms-of-use.md#3-deque-warranties>)

## 3. Deque Warranties.

- Deque warrants that, for the period of time stated in the Specific Terms, the Product will function in all material respects as described in Deque's then-current Product-specific user manuals and instructions (the "Documentation").
- DEQUE MAKES NO WARRANTY OTHER THAN THE WARRANTY STATED ABOVE. DEQUE DISCLAIMS ALL OTHER WARRANTIES, AND PROVIDES ALL GOODS, SERVICES, AND SOFTWARE AS-IS AND WITH ALL FAULTS AND THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY, AND EFFORT IS WITH DEVELOPER. DEQUE EXPRESSLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR ANY PURPOSE, NON-INTERFERENCE, AND NON-INFRINGEMENT.
- Under no circumstances may Customer use the Product, any Documentation, or any other good, service, or software provided by Deque in connection with any good, service, or software that is to be used for any application where the failure or noncompliance of such good, service, or software is likely to result in personal injury (including, but not limited to, death) or property damage.
- The Product operates utilizing the Internet, which is not under the control of Deque, and which is inherently insecure. Deque makes no warranties, representations, or guarantees of any kind, express, implied, statutory, or otherwise, oral or written, with respect to the performance or security of the Internet.

(<https://github.com/dequelabs/legal-docs/blob/main/terms-of-use.md#4-confidentiality>) 4.

# Confidentiality.

- “Confidential Information” means any information belonging to, or held by, Deque whether fixed in a tangible medium or otherwise, that is:
  1. Not readily ascertainable by proper means by the public; and
  2. The subject of commercially reasonable efforts by Deque under the circumstances to maintain as confidential; The Product is also Deque’s Confidential Information.
- Customer will do the following things with regard to the Confidential Information.
  1. Prevent the disclosure of the Confidential Information by Customer and each of Customer’s employees, agents, and/or professionals to any third party other than as permitted under the Terms.
  2. Use, and permit the use of, the Confidential Information only for the purpose of performing Customer’s obligations, or enjoying its rights, under the Terms (the “Purpose”).
  3. Disclose the Confidential Information only to such of Customer’s employees and agents (each a “Representative”) as have a bona fide need to possess or know the Confidential Information in the course of accomplishing the Purpose.
  4. Cause each Representative to whom Customer discloses the Confidential Information to be bound by an obligation of confidentiality that is at least as rigorous as the obligations contained in the Terms. Each professional, such as a lawyer or an accountant, actually retained by Customer in a professional-client relationship will be deemed under an adequate obligation of confidentiality for the purposes of the Terms so long as the law recognizes an obligation of confidence actionable by Customer under law without a separate contractual obligation.
  5. Return or destroy all written or other tangible copies of Confidential Information in Customer’s possession or direct or indirect control, including all extracts and copies thereof, within a reasonable time after, and in accordance with, Deque’s request.
- Nothing in this Section 5 will prevent Customer from disclosing or using the Confidential Information of Deque to the extent that:
  1. It is or becomes readily ascertainable by proper means by the public without any breach by Customer of Section 5(b);
  2. It is received from a third Party that is not under an obligation of confidentiality of which Customer knew or had reason to know;
  3. It is independently developed by Customer without use of Deque’s Confidential Information; or
  4. It is required by law to be disclosed, provided that Customer (to the extent not prohibited by law):
    - Provides to Deque as much notice as is practicable under the circumstances of such requirement;
    - Provides to Deque, at Deque’s expense, such reasonable assistance as Deque requests in seeking confidential treatment, protective orders, nondisclosure, and/or similar measures; and
    - Discloses only such Confidential Information as Customer, upon advice of its counsel, believes is required to be disclosed.
- Because unauthorized use or disclosure of Confidential Information might result in immediate and irreparable injury to Deque, for which monetary damages might not be adequate, if Customer or any officer, director, employee, agent, professional, or subcontractor of Customer uses or discloses Confidential Information or any such person is likely to use or disclose Confidential Information in breach of Customer’s obligations under the Terms, Deque will be entitled to seek equitable relief, including temporary and

permanent injunctive relief and specific performance. The rights in this Section 5(d) are in addition to any other rights of Deque under the Terms, at law, or in equity.

- The obligations under this Section 5 will continue after disclosure of each item of Confidential Information for the longer of:
  1. Five years after initial disclosure of that item of Confidential Information; or
  2. The time during which the Confidential Information remains a trade secret (as that term is defined in the Uniform Trade Secrets Act) of Deque.

(<https://github.com/dequelabs/legal-docs/blob/main/terms-of-use.md#5-limitation-of-liability>)

## 5.

# Limitation of Liability.

- EXCEPT IN THE CASE OF BREACHES OF THE CONFIDENTIALITY PROVISIONS BY CUSTOMER OR MISAPPROPRIATION BY EITHER PARTY OF THE PROPRIETARY RIGHTS OF THE OTHER PARTY:
  1. THE LIABILITY OF ONE PARTY TO THE OTHER FOR ANY REASON OR REASONS AND UPON ANY CAUSE OF ACTION OR CAUSES OF ACTION PURSUANT TO THIS AGREEMENT SHALL BE LIMITED TO THE LICENSE FEES ACTUALLY PAID BY CUSTOMER TO DEQUE DURING THE 12 MONTHS PRECEDING THE BREACH; and
  2. NEITHER PARTY SHALL HAVE LIABILITY WITH RESPECT TO ITS OBLIGATIONS UNDER THIS AGREEMENT OR OTHERWISE FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(<https://github.com/dequelabs/legal-docs/blob/main/terms-of-use.md#6-fees>)

## 6. Fees.

1. Customer will pay the fees stated in the Specific Terms. Where Customer provides a credit card, ACH authorization, or similar means of payment, Customer authorizes Deque to charge fees against those payment methods, including, but not limited to, for renewals. All credit card payments will be subject to a 4% processing fee.
2. If Customer fails to timely pay any amount due under the Terms, Deque may charge, and Customer will pay, late fees that are the lesser of 1% per month or the maximum rate permitted by law.
3. Fees are exclusive of any tax(es). Customer shall be responsible for, and shall pay or reimburse Deque for, any and all such taxes. If a claim is made against Deque for taxes with respect to which Customer is liable for a payment or indemnity hereunder, Deque shall promptly notify Customer of such claim; provided however, that failure to give notice will not relieve Customer of its obligations hereunder, unless and except to the extent that (i) such failure increases the amount for which Customer would have been liable in the absence of such failure, or (ii) such failure results in the imposition of, or an increase in the amount of, any penalties, interest, or other additions to tax that is the subject of such claim. Customer may, in good faith, with due diligence and at its expense, contest the validity, applicability, or amount of such taxes. Unless otherwise permitted by law or by agreement of the parties, such contest will be coordinated by Deque, and Deque agrees to make good faith efforts to contest such claim in cooperation with Customer and in accordance with Customer's reasonable requests and directions. If Deque receives any refund of a tax for

which Customer has provided payment hereunder, Deque shall promptly, but in any event within 30 days of receipt of such refund, remit such refund to Customer, together with any interest refunded on such amount.

## 7. Period.

- (<https://github.com/dequelabs/legal-docs/blob/main/terms-of-use.md#7-period>)
- (a) The term of the agreement consisting of the Terms is initially the period stated in the Specific Terms or, if no period is stated in the Specific Terms, one year (in either case, the "Initial Period"). If Customer does not, on or before the date that is 60 days prior to the end of the then-current Period (as defined below) give to Deque notice of its intent not to renew at the end of the then-current period (Initial Period or Renewal Period), the term of the agreement will automatically renew for an additional one-year period (each a "Renewal Period" and the Initial Period, together with the Renewal Period(s), being the "Period").
  - Deque may adjust the pricing for any Renewal Period by an amount not to exceed the proportional increase in the Consumer Price Index for All Urban Consumers – All Items since the last time at which pricing was set, plus up to 2%.
  - In addition to any other right of Deque, Deque may terminate the agreement represented by these Terms at any time without cause upon 30 days' notice to Customer and may terminate the agreement represented by these Terms immediately upon notice for (a) nonpayment of any amount due or any other breach by Customer of the Terms.

(<https://github.com/dequelabs/legal-docs/blob/main/terms-of-use.md#8-general-provisions>)

## 8. General Provisions.

- **Force Majeure.** If the performance of any part of the Terms (other than payment of amounts due from Customer) by either party is prevented, hindered, delayed or otherwise made impracticable by reason of any flood, unusually severe weather, riot, fire, judicial or governmental action, labor dispute, act of God, act of terrorism, or any other cause beyond the control of either party, that party shall be excused from performance to the extent that it is prevented, hindered or delayed by such causes.
- **Governing Law; Venue.** The Terms shall be governed in all respects by the laws of the Commonwealth of Virginia, United States of America (excluding the Uniform Computer Information Transactions Act) without regard to their conflict of law provisions. Except for an action by Deque to enforce its rights under Section 5, any claim, suit, or cause of action arising out of, or related to, these Terms must be brought solely in the courts of the Commonwealth of Virginia sitting in Fairfax County, Virginia or in the United States District Court for the Eastern District of Virginia.
- **Assignment.** Customer may not assign, without the prior written consent of Deque, any of its rights, duties, or obligations under the Terms to any person, whether by assignment, merger, transfer of assets, sale of stock, operation of law or otherwise. Deque may assign its rights and obligations under the Terms at any time and without Customer's consent.
- **Notice.** Any notice required or permitted to be given under the Terms must be in writing and will be deemed effective (a) if given by personal delivery, upon such personal delivery, (b) if given by nationally-recognized courier or mail service (in either case that has realtime or near-realtime tracking), at the time that the notice is delivered (or an attempt is made to deliver the notice, regardless of whether refused) to the receiver's

premises according to the tracking records of the courier or mail service, (c) if given by fax, at the beginning of the next business day at the receiver's location, provided that the sender's fax device generates a confirmation that the fax arrived at the receiver's device and that there is no indication in the course of the transmission that the notice did not arrive at the receiver's fax device, or (d) if by e-mail, when sent, provided that sender receives no indication within four hours after sending that the e-mail message failed to reach the receiver. If a receiver knowingly or intentionally renders a fax device or e-mail system incapable of receiving notice by that means, any notice sent by fax or e-mail respectively will nevertheless be effective upon sending. The addresses for notices for Deque is as follows.

Deque Systems, Inc. 381 Elden Street, Ste 2000 Herndon, VA  
20171 general.counsel@deque.com (<mailto:general.counsel@deque.com>)

The addresses for notice for Customer are the most recent Customer information on file with Deque. Either party may change its address for notice by notice to the other party.

- **Audit Rights.** Upon Deque's written request at any time during the Term, Customer shall provide to Deque a signed certification (i) verifying that the Product is being used in accordance with these Terms; and (ii) listing the number of users, and any other information reasonably requested by Deque. Deque may, at Deque's expense, and not more than once annually, audit Customer's use of the Product and compliance with these Terms. The audit will be conducted during business hours and will not unreasonably interfere with Customer's business activities. Customer shall provide Deque or its auditor with all reasonable information and assistance (including copies of related software) required to enable Deque to determine whether Customer is in compliance with these Terms. If the audit reveals that Customer has underpaid fees to Deque, Customer will be invoiced for the underpaid fees based upon Deque's price list at the time the fees would have otherwise been incurred, together with interest at the lesser of 1.5% per month or partial month, or the highest rate permitted by law, until paid. If the audit reveals that Customer has underpaid fees totaling five percent (5%) or more of the fees due in any year, Customer shall reimburse Deque for all reasonable expenses associated with the audit.
- **Successors and Assigns; No Third-Party Beneficiaries.** The Terms are legally binding upon and inures to the benefit of the parties and their permitted successors and assigns. No third party is intended to benefit from, nor may any third party seek to enforce, any of the terms and conditions of the Terms, including, but not limited to, any third party with whom Customer has an employment or separate contractual relationship.
- **Relationship of the Parties.** Nothing contained in the Terms shall be deemed to create an association, partnership, joint venture, or relationship of employment, principal and agent or master and servant between the parties, or to grant either party the right or authority to assume, create or incur any liability or obligation of any kind, express or implied, against, in the name of, or on behalf of, the other party.
- **Waiver.** The failure of a party to enforce any of the provisions of the Terms, or to exercise any option provided in the Terms, or to require performance by the other party of any of the provisions in the Terms, is not a present or future waiver of such provisions and does not affect the validity of the Terms or the right of the party to enforce every provision of the Terms thereafter. The express waiver (whether one or more times) by a party of any provision, condition or requirement of the Terms does not constitute a waiver of any future obligation of the other party to comply with such provision, condition, or requirement.
- **Severability.** If any provision of the Terms is invalid under any applicable statute or rule of law, it is to that extent to be deemed omitted, and the balance of the Terms shall remain enforceable.
- **Survival.** The terms and conditions that by their sense and context are intended to survive termination or expiration hereof shall so survive.
- **Remedies Cumulative.** Deque's remedies are cumulative. No exercise by Deque of a particular remedy will be deemed an exclusive election of that remedy.

- **Compliance with Laws.** Each party will comply with all law that applies to it.
- **U.S. Government Users.** The Product and Documentation provided are “Commercial Items,” as that term is defined at 48 C.F.R. §2.101, consisting of “Commercial Computer Product” and “Commercial Computer Product Documentation,” as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 and 48 C.F.R. §§227.7202-1 through 227.7202-4, 48 C.F.R. §52.227-19 and other relevant sections of the Code of Federal Regulations, as applicable. Deque’s publications, commercial computer software, and commercial computer software documentation are distributed and licensed to United States Government end users only as a Commercial Item and with only those rights as granted to all other end users, according to the terms and conditions contained in the license agreements that accompany the products and software documentation, and the terms and conditions in the Terms.
- **Export Compliance.** All materials provided by Deque hereunder shall be delivered to Customer on a F.O.B. (UCC 2-319) shipping point basis or by electronic posting for download. Unless an appropriate license, exemption, or similar authorization has been duly obtained, Customer will not, nor will Customer authorize or permit Customer’s employees, agents, successors, or any other person to, export or re-export the Product, the Documentation, or any services provided under the Terms to any country identified as a prohibited destination by any applicable laws or regulations. Furthermore, Customer will undertake and perform all ‘denied party screening’ or similar obligations imposed by or arising under applicable laws or regulations. To the extent applicable, the commodities, technology, and/or software delivered under the Terms will be/were exported from the United States or other country of origin in accordance with the United States Export Administration Regulations or other export regulations applicable in the jurisdiction of origin. Any diversion contrary to United States or other applicable law is prohibited.
- **Entire Agreement.** The Terms constitutes the entire agreement between Deque and Customer with respect to the subject matter of the Terms and there are no representations, understandings, or agreements about the subject matter hereof that are not fully expressed in the Terms.

## Need Accessibility Help?

Deque is your accessibility company of choice.

Call [703-225-0380](tel:1-703-225-0380) or [Email Us](mailto:Email Us) (<https://www.deque.com/company/contact/>).

Customers can contact our [support helpdesk](https://www.deque.com/help-center/) (<https://www.deque.com/help-center/>).